

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSE ALFREDO PINA,

Plaintiff,

vs.

DOMINGO URIBE, JR., Warden,

Defendant.

CASE NO. 10-CV-278 H (BGS)

**ORDER DENYING
CERTIFICATE OF
APPEALABILITY**

On February 3, 2010, Petitioner Jose Alfredo Pina (“Pina”) filed a petition to writ of habeas corpus. (Doc. No. 1.) On March 4, 2011, the Court issued an order denying Petitioner’s writ of habeas corpus and denying a certificate of appealability. (Doc. No. 24.) On April 6, 2011, Petitioner Pina filed an appeal to the Ninth Circuit Court of Appeals. (Doc. nos. 26, 28.) On April 6, 2011, Petitioner Pina also filed a motion for a certificate of appealability. (Doc. No. 27.)

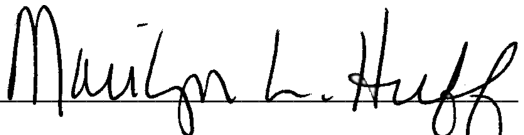
According to the Federal Rules of Appellate Procedure, a petitioner may not seek an appeal of a claim arising out of state court detention unless the petitioner obtains a certificate of appealability from either the district judge or a circuit judge under 28 U.S.C. § 2253. See Fed. R. App. P. 22(b). Section 2253 states that a certificate of appealability may only issue if the petitioner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(1). Where, as here, the district court has rejected the petitioner’s constitutional claims on the merits, “[t]he petitioner must demonstrate that reasonable jurists would find the

1 district court's assessment of the constitutional claims debatable or wrong." Slack v.
2 McDaniel, 529 U.S. 473, 483-84 (2000).

3 The Court previously denied a certificate of appealability. (See Doc. No. 24.) The
4 Court will alternatively consider Petitioner's current motion as a motion for reconsideration
5 of that denial. The Court has carefully reviewed Petitioner's original petition, this motion, and
6 other related papers. From that careful review, the Court sees no good grounds for issuing a
7 certificate of appealability in light of the controlling legal standards. Because Petitioner has
8 not made a "substantial showing of a denial of a constitutional right," Slack, 529 U.S. at 483-
9 84, the Court declines to issue a certificate of appealability.

10 **IT IS SO ORDERED.**

11 DATED: April 22, 2011

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13 MARILYN L. HUFF, District Judge
14 UNITED STATES DISTRICT COURT
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